

I am asking you to support HB 4806 which will abolish the sentencing of juveniles to life without any chance of parole review and address the retroactivity issue. As you know, the US Supreme Court has ruled on this. Changes in state law are needed to allow individuals who are deserving a second chance at life. These bills will allow only for parole review and do not allow any immediate release of any persons, simply the chance for hope and review. Currently there are more than 355 individuals in Michigan serving sentences for crimes they committed before their 18<sup>th</sup> birthday- before they could vote, be drafted, purchase alcohol or even a lottery ticket... because they are not deemed adult. Yet these individuals were sentenced to die in prison with NO judicial discretion as to the circumstances of their crime; rather, they were charged as adults irrelevant of their maturity level.

Michigan has the second highest percentage of juveniles serving mandatory life sentences without the possibility of parole. Widespread research has shown that this is not being smart on crime. Research shows that juvenile offenders can often be reformed and lead productive lives. This is true of many, many offenders sentenced BEFORE the mandatory life term and automatic Prosecutorial upcharge to adult status for certain crimes (instead of judicial discretion) for certain juvenile crimes who ARE leading useful and productive lives. However, rehabilitation programs are often denied lifers because they currently have no chance for societal integration. Despite this, many lifers have proven themselves to be productive and reformed even while behind bars. I would simply like the Michigan Legislature ... and you in particular... to support a bill which will establish procedures where proven, evidence based best practices are taken into account. In short, a bill that will allow deserving, reformed individuals the opportunity for parole.

*Life without parole is not only harsh and unusual punishment but costs the state over \$35,000. Per prisoner per year.... Most lifers who die in prison serve over 50 years at today's costs of over \$1.7 million each! Statistics show it is EXTREMELY unlikely that anyone who has a lengthy sentence will ever serve time again.... In fact, statistically, MOST inmates with lengthy sentences are no more likely to reoffend than the general population. And, where not all inmates are good candidates for parole, MANY more are. We need to be SMART with criminals, not just tough on crime.*

The US Supreme Court has already determined juveniles should be treated differently... as I believe most citizens agree. Law acknowledges the difference between juveniles and adults. I strongly believe that deserving youth should be given a second chance. I hope you do, too and will support this legislation.

Sincerely,

Dr. James M. Dankovich

c. 248-229-3717



## Prison reform

## An unlikely alliance of left and right

ATLANTA

**America is waking up to the cost of mass incarceration**

**E**RIC HOLDER and Rick Perry (pictured) have little in common. America's attorney-general is black, liberal and uses the word "community" a lot. The governor of Texas is white, conservative and says "God" a lot. Last month Mr Holder's Justice Department sued Texas for allegedly trying to make it harder for blacks to vote. Last year Mr Perry ran to unseat Mr Holder's boss, Barack Obama.

On one thing, however, the two men agree. On August 12th Mr Holder said: "Too many Americans go to too many prisons for far too long, and for no truly good law-enforcement reason." He then unveiled reforms to reduce the number of people sent to America's overcrowded federal prisons. In this, he was following the perfectly-coiffed Texan's lead. Several years ago, Mr Perry enacted similar reforms in the Lone Star State, and they worked.

America has the world's largest prison population. China, which has more than four times as many people and nobody's idea of a lenient judiciary, comes a distant second. One in 107 American adults was behind bars in 2011—the highest rate in the world—and one in every 34 was under "correctional supervision" (either locked up or on probation or parole). A black man in America is 3.6 times more likely to be incarcerated than a black man in 1993 in South Africa, just before apartheid ended.

Granted, the number of Americans un-

der lock and key has fallen since 2008, but only from 2.31m to 2.24m. And that slight dip comes after a mammoth rise: between 1980 and 2008, the number of incarcerated Americans more than tripled.

In the federal prison system, for which Mr Holder is responsible, the rise has been even more dramatic (see chart). From the 1940s to the early 1980s the federal prison population remained relatively stable, at around 24,000. But then came the crack epidemic, to which Congress responded with mandatory-minimum sentences.

A first-time offender convicted of possessing five grams of crack, for instance, received a mandatory-minimum sentence of five years. Conviction as part of a "con-

tinuing criminal enterprise" triggered a 20-year mandatory-minimum. Conspiracy laws made all members of a drug operation legally liable for all the operation's crimes: a youngster whom drug dealers paid a few dollars a day to act as a lookout, for instance, could be hit with the same stiff penalties as his bosses. In 1994 Congress introduced a "safety-valve", which allowed judges to ignore mandatory minimums for certain non-violent informants, but its stringent terms disqualify most people convicted of drug-related offences.

Drug offenders are nearly half of all federal prisoners, and most people convicted of federal drug offences received mandatory-minimum sentences. Since 1980 the federal prison population has soared from 24,000 to 219,000; between 1980 and 2013 the federal Bureau of Prisons budget rose by almost 600% in real terms. Federal prisons today house nearly 40% more inmates than they were designed for. Meanwhile, America's violent-crime rate is less than one-third what it was in 1982, and less than half what it was in 1997.

Some argue that prison works. The reason crime has fallen so sharply, they say, is that bad guys who are locked up cannot mug you. This is true, but America long ago passed the point where imprisoning more people is a cost-effective way of reducing crime. Bert Useem of Purdue University and Anne Morrison Piehl of Rutgers University find "accelerating declining marginal returns" to incarceration in America. In other words, locking up violent criminals while they are young, strong and reckless does indeed keep the streets safer, but keeping them locked up deep into their dotage costs a fortune and prevents very few crimes.

It is also unfair. Harsh, inflexible sentencing rules inflict punishments that no

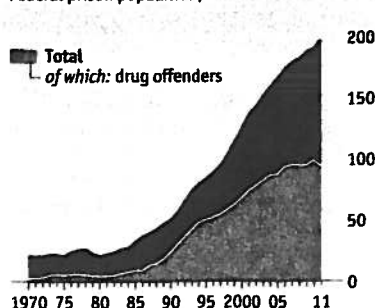
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**Shooting up**

Federal prison population, '000



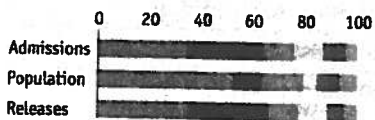
Source: Department of Justice

### Staying high

Federal prisoners, 2010, %

Type of offence:

Drug    Immigration    Weapon  
Property    Public-order    Violent



Source: Department of Justice

► reasonable judge would impose. Jack Carpenter, for example, sold medical marijuana to dispensaries in California, where it is legal, but was still sentenced to ten years in prison by a federal judge.

The high cost of mass incarceration has attracted attention from both left and right. In March Rand Paul, a Republican senator, and Patrick Leahy, a Democratic one, introduced the Justice Safety-Valve Act of 2013, which would let judges impose sentences below the mandatory minimum. In July Mr Leahy, along with Dick Durbin and Mike Lee, a Democrat from Illinois and a Republican from Utah, introduced the Smarter Sentencing Act of 2013. It would, among other things, shorten mandatory minimums and expand the safety-valve.

And this week, in a speech before the American Bar Association, Mr Holder announced a clutch of reforms. More elderly federal inmates are to be released early. More effort will be made to help ex-convicts re-enter society, in the hope that this will curb re-offending. Pointless rules making it harder for ex-cons to find homes or jobs will be reconsidered. And most important, low-level, non-violent drug offenders without ties to gangs or cartels will no longer be charged with crimes that trigger mandatory minimums.

### Texas won't hold 'em

As Mr Holder noted, these policy shifts mirror similar ones that more than half of all American states have enacted over the past decade. The wave began with Texas—then as now led by Mr Perry—which in 2003 passed a law sending people convicted of possessing less than a gram of drugs to probation rather than prison. In 2007 Texas allocated \$244m for drug-treatment and alternatives to prison for non-violent offenders. Between 2003 and 2011 violent crime in Texas fell by 14.2%. The state's prison population has also declined steadily. Sentencing reform passed in Georgia—where one in 13 adults is imprisoned, on probation or on parole—will save the state an estimated \$264m over the next five years. Kentucky's is forecast to save the state \$400m while reducing its prison population by 3,000 over the next ten years.

It is not clear how many sentences Mr Holder's reforms will shorten or how much money they will save. Although the

### Prison politics

## Jam-packed or alone

LOS ANGELES

### Overcrowding and solitary confinement, in California and beyond

JEFFREY BEARD, California's prisons chief, boasts that the number of inmates in the state's prisons has fallen by 43,000 since 2006. But unlike other states that have seen big drops, California's hand was forced: in 2009 federal judges were so concerned by overcrowding that they ordered the state to cut prison occupancy to 137.5% of design capacity (at one point it exceeded 200%). The ruling has been upheld over the laments of officials, most recently by the Supreme Court on August 2nd. An appeal is pending.

California has not reduced numbers simply by setting people free. Rather, it has sent lots of non-serious offenders to county jails instead of state prisons (a policy called "realignment"). To meet the court-decreed target by the end of the year, the state must find another 7,000 or so prisoners to offload, says Mr Beard. His department hopes to do this mainly through "capacity options", such as dispatching prisoners to costly private lock-ups in other states.

Officials worry that further releases may "cut into muscle rather than fat", says Joan Petersilia of Stanford Law School. Crime has crept up in parts of California since realignment began in 2011 (although the causal link isn't clear). Still, Ms Petersilia thinks the state could release some elderly and frail inmates.

Mr Beard is also contending with a month-long hunger strike by 300-odd prisoners opposing conditions in Security Housing Units (SHUs), often (and incorrectly, say officials) described as solitary confinement. SHUs were created in the 1980s to isolate gang members; some of the 4,500 prisoners they house have been there for over two decades.

Last year the state's department of corrections softened policy on the use of SHUs after two earlier hunger strikes; gang members must no longer turn informant to be released, for example. Mr Beard says today's strike is orchestrated by gang leaders.

Solitary confinement is a touchy topic

federal prison system is larger than that of any single state, it holds only 10% of American prisoners. Mr Holder has not changed any sentencing laws; he has ordered federal prosecutors to circumvent them. Some people object: Bob Goodlatte, the Republican chair of the House Judiciary Committee, chided Mr Holder for "selectively enforcing our laws and attempting to change them through executive fiat".

nationwide. How many Americans are subjected to it is hard to say. As of 2005 roughly 25,000 were held in "supermax" prisons, in which the most dangerous prisoners are locked in a single cell for up to 23 hours a day. When they are let out to exercise, they do so alone, watched over by guards in riot gear. Meals come through slots in a door. Some cells have no windows. Tens of thousands of inmates in normal prisons are also sent to solitary, usually for breaking rules. Some stay there indefinitely.

In 2011 Juan Mendez, the UN special rapporteur on torture, called for an end to solitary confinement of periods longer than 15 days. Terry Kupers, a psychiatrist, says roughly half of all prison suicides occur among the small fraction of prisoners kept in isolation. Some prisoners need to be kept apart from other inmates for their own safety. Brian Nelson, who spent 23 years in solitary and says he remains scarred, acknowledges that "when someone becomes [uncontrollably] psychotic or homicidal you need to put them in there for cooling off." But that should not take decades.



It's cramped in here

Others say Mr Holder has simply exercised his prosecutorial discretion humanely. Molly Gill of Families Against Mandatory Minimums, a pressure group, says that after years of campaigning against discretion-free mandatory sentences, it feels at last as though her group is "pushing against an open door". And "open door" is not a phrase you often hear in the sarbreath as "American prisons". ■

## STATE'S JUVENILE LIFER LAW BY THE NUMBERS

■ Michigan is one of only seven states that mandate children as young as 14 be charged, tried and sentenced as adults for homicide and, if convicted, sentenced to life without any possibility of parole. The other states are Delaware, Florida, Massachusetts, Mississippi, New Hampshire and Pennsylvania.

■ About 38% of juveniles serving mandatory life in prison without the possibility of parole in Michigan had no prior criminal record.

■ Children of color account for 74% of Michigan's juvenile lifers, but only 29% of the state's youthful population.

■ Michigan accounts for 3% of the nation's youthful population, but nearly 14% of juveniles sentenced nationwide to mandatory life in prison without the possibility of parole.

■ Some 38% of Michigan's juvenile lifers were represented by lawyers who have been disciplined for ethical problems.

■ The cost of incarcerating one juvenile prisoner from 1998-2010: \$323,995.

Sources: American Civil Liberties Union of Michigan and Second Chances 4 Youth

Det Free Press Oct 14, 2012

## JUDGES LEFT OUT

Michigan began cracking down on juveniles in murder cases in the late 1980s.

Before then, prosecutors had to get juvenile judges' permission to try children as adults. The judges would evaluate the juvenile, the crime, the suspect's role and other factors before deciding whether to lock them in a juvenile facility until age 19 or waive them to circuit court for trial as adults.

In 1988, the Legislature allowed prosecutors to go directly to circuit court to charge 15- and 16-year-olds with murder and other serious crimes. In 1996, it extended the automatic waiver to 14-year-olds.

The changes took juvenile judges out of the equation, and the mandatory penalty for first-degree murder stripped circuit judges of any sentencing discretion.

DETROIT FREE PRESS OCT 14, 2012

## **Brain Development in Adolescence**

During the past two decades there has been a great deal of research on adolescent brain development that questions much of our earlier knowledge. The findings are relevant both with respect to a juvenile's culpability for a crime and also with respect to his/her ability to participate effectively in his/her defense in a trial.

### **The Adolescent Brain Is Not Fully Developed**

- Recent neuroscience research has revealed that the human brain is not fully developed until a person's mid-twenties, a finding which is contrary to previous beliefs that the brain matured much earlier in life.
- The last region of the brain to develop, the prefrontal cortex (PFC), governs abilities such as response inhibition, self-control, anticipation of consequences, and logical decision-making. Until the PFC is fully developed, the adolescent's ability to perform these functions is limited.
- Due to the high probability of their exposure to extreme stress, abuse, neglect, malnutrition, and head injury, delinquent adolescents are even less cognitively developed than the experimental subjects from which brain development evidence is drawn.
- Behaviorally, this can manifest as increased risk-taking and lower self control, especially in stressful or emotionally charged situations.

## **Curriculum vitae, Dr James M Dankovich**

Dr. Dankovich is a lifetime Michigan resident active in politics and the legislative process. He is a graduate of Seaholm High School in Birmingham, the University of Michigan (BA, 1971). He has attended University of Wisconsin, University of California (San Diego), Harvard University for additional post-graduate work. Dr. Dankovich is a graduate of Life University of Health Science in Georgia and practiced as a Chiropractic Physician for nearly 30 years.

He also taught 5<sup>th</sup> and 6<sup>th</sup> grade, worked as a Youth Counselor for the Department of Social Services (SC), is a trained exercise Specialist, as well as a trained Applied Kinesiologist.

Dr. Dankovich is a Member of Kensington Community Church, the Michigan Association of Chiropractors, CAPPS, the Citizens for Prison Reform, the Prison Creative Arts Project, and the American Friends Service Committee in Ann Arbor.

He has visited various correctional facilities for youth and adults over 500 times, including Oakland County Jail, the Oakland County Children's Village, Ryan Correctional Facility, G. Robert Cotton Correctional Facility and the Thumb Correctional Facility.... Never as an inmate, fortunately.

Dr. Dankovich has spoken before committees in the Michigan House, served on Post Secondary Education Committee, Prison Ministries, and has met with various legislators, wardens, directors of MDOC, as well as numerous groups concerned with rising costs and rates of incarceration and lowering recidivism.

He is certified in Restorative Justice and has attended multiple conferences on Juveniles Incarcerated as Adults, Juvenile Life Without Parole.

He has two children, 12 and 22 years of age. His son was been incarcerated at 15 as an adult in MDOC.

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**or cell ... 248-229-3717**

Michigan is NOT in compliance with the US Supreme Court ruling given in June , 2012 regarding juvenile mandatory life without parole sentences for those under 18. Current Michigan Law violates the 8<sup>th</sup> Amendment prohibition on cruel and unusual punishments. The Court struck down statutes in Michigan and 28 other states for mandatory life without parole sentences for children, ruling “imposition of a State’s most severe penalties on juvenile offenders cannot proceed as though they were not children. Several bills will shortly be introduced to remedy this oversight.

Other states have rectified this issue with legislation , such as Georgia and California. Some states never had an issue treating juveniles as adults.

To be effective and legal as well as anticipating further US Supreme Court actions regarding Juvenile competency as defined in Miller ANY bill MUST include:

1. Abolishing mandatory JLWOP completely going forward.
2. Abolish life without the eligibility for a parole review by the parole board for those under 18; for 750.316 crimes judicial discretion must be limited to a term of years.
3. Parole in the case of minors currently sentenced to life without parole or minors sentenced for lengthy terms MUST consider parole REVIEW (not guaranteed parole!). 10-12 years after sentences begin for minors and a review thereafter every 2 ½ years is recommended by several organizations who have studied the Supreme Court ruling.
- 4 The statute MUST require that a sentencing judge consider the Miller factors. The bill MUST amend sentencing guidelines to include Miller factors. The bill MUST require the parole board to consider Miller factors.
5. The Bill needs to require children under 18 sentenced to life (or lengthy sentences (beyond 12 years for juveniles) to get placed under parole board jurisdiction.
6. Amend sentencing guidelines to include Miller factors.

7. Presume parole be granted in the MINIMUM sentence required by the conviction unless there are behaviors specifically prohibited by the Correctional Facility (ie. Minimum sentence prescribed by the court unless there is significant documented "bad behavior" by the inmate). THIS IS A KEY ISSUE.

Michigan's current law strips judges of their discretion to determine whether life sentence is proper. Currently, County PROSECUTORS are given SOLE discretion for the automatic waiver of juvenile court jurisdiction and have not considered Miller factors. This policy must be amended. It eliminates from realistic consideration critical factors such as age, maturity, degree of culpability from the purview of elected judges and puts it into the hands of prosecutors. This effectively has removed much of the judge's authority (see Detroit Free Press articles). Opposition to this concept by the Prosecutor's Association is therefore likely.

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Public opinion research has shown :

1). The majority of citizens surveyed DO NOT agree with current policy in the State of Michigan.... Only 5% of Michigan residents believe LWOP in an adult facility is an appropriate sentence for juveniles!

2). 80% of respondents to the survey believe adolescents 14,15, 16 should NOT be in adult prisons. 72% believed adolescents under 18 who commit violent offenses are strong candidates for REHABILITATION.

This information is accurate. We must be SMART ON CRIME, not just tough on crime.... And we MUST conform to the US Supreme Court's ruling as well as keep the public safe. Basing statutes on fact rather than sensationalism from the media... and biased information sometimes given by associations with a vested interest in prosecution and sensationalism is NOT in the public's best interest.

Dr. Jim Dankovich c. 248.229.3717



Pelican Bay State Prison is designed to house California's most serious criminal offenders. *Right:* When Eastern State Penitentiary opened in 1829, visitors from around the world marveled at its grand architecture and radical philosophy. With its high arched cathedral and over 1,000 skylights, the building feels more like a religious space than a prison.



# JAILHOUSE BLUES

Despite the noblest of intentions, America has become the world's superpower of incarceration. **BY TODD PITOCK**

**We are facing a crisis in America. The crisis is largely hidden from view, but like a cancer, it threatens the very health of society.** We have become a superpower of incarceration. Today we warehouse 2.2 million inmates according to the most recent U.S. Bureau of Justice Statistics report.

That's more than the entire population of Houston. More than two-thirds that of Chicago.

China, with more than four times the U.S. population, is a distant second with 1.5 million inmates. The United States imprisons 760 people per 100,000. The number for France is 96, Germany 90, and Japan 63. As an NAACP advertisement points out, we are 5 percent of the world's population and we house 25 percent of the world's prisoners.

How did we get here? Between 1925 and 1972, our state inmate population increased 105 percent—roughly proportionate to the country's overall growth. Since 1973, when stiffer sentencing came in—particularly the so-called

Rockefeller drug laws providing lengthy minimum sentences for possession of small quantities of banned substances—the number of prisoners has increased more than 700 percent. That's about 14 times the country's overall growth.

The costs are staggering. In a survey of 40 participat-

ing states, the Vera Institute of Justice concluded that U.S. taxpayers were shouldering an annual bill of \$39 billion. And that's just the direct costs. Indirect costs, which tend to be carried by government agencies other than corrections departments, are incalculable.

"The system is so skewed," laments Bob DeSena, executive director of Council For Unity, an anti-gang initiative headquartered in New York City. "As a society we are completely focused on punishment. People are willing to spend hundreds of thousands on incarceration, but they don't want to spend a few dollars on programs that are proven to prevent them from becoming criminals in the first place."

What to do with criminals—what warrants imprisonment, for how long, and how to reintegrate released men and women—is one of society's most difficult challenges. In modern times, the great philosophical debate has been whether the mission is to reform or to punish. And possibly no society has cycled quite so widely between the two extremes as America.

The prison reform movement started more than 200 years ago, in the throes of the Industrial Revolution when a surge in the urban population came with a steep rise in crime. At the time, jail was little more than a means of segregating malefactors from the rest of the population. Perpetrators who weren't killed outright (Pennsylvania, the first state to

## Perspective

PHOTO COURTESY CALIFORNIA STATE DEPARTMENT OF CORRECTIONS



## PRISONS, A TIME LINE

**1779** Britain's Penitentiary Act includes the concept of "rehabilitation." Previously the sole purpose of jail was to punish prisoners or to separate them from the general population.

**1786** Abolition of death penalty for burglary in Pennsylvania. By 1794 the state had abolished all capital punishment except in cases of first-degree murder, the first time murder was divided into degrees.

**1787** First prison reform group, Philadelphia Society for Alleviating the Miseries of Public Prisons, is formed by Dr. Benjamin Rush, a Quaker. Benjamin Franklin is an early member.

**1816** Auburn Prison is built in New York, namesake of the "Auburn System," in which persons worked during the day in groups and were kept in solitary confinement at night, with enforced silence at all times.

**1829** Eastern State Penitentiary opens its doors in Pennsylvania, inspired by the Quaker belief that prisoners isolated in stone cells with only a Bible would use the time to repent, pray, and find redemption.

**1890** Widespread suicide and mental distress among prisoners at Eastern State and other prisons raises concern about solitary confinement.

**1934** Alcatraz prison opens. Its "D Block," a solitary confinement section, includes one cell known as "The Hole" where inmates are fed bread and water and kept naked, without light.

**1939** Incarceration rate for federal and state prisons peaks at 137 per 100,000—then drops during World War II.

**1948** Britain's Criminal Justice Act abolishes penal servitude, hard labor, and flogging.

**1971** Eastern State prison closes.

**1973** New York's Governor Rockefeller passes drug laws providing minimum sentences of 15 years to life for possession of small quantities of banned substances. Other states soon follow New York's example, and prison populations begin to skyrocket.

**1974** Texas adopts the nation's first "habitual offender" laws—popularly known as the "Three Strikes" law. By 2012, 26 other states have adopted similar laws, further swelling the prison population.

**1989** First supermax facility, California's Pelican Bay is built to provide long-term, segregated housing for inmates classified as the highest security risks. Inmates spend 22.5 hours a day inside an 8-by-10-foot cell.

**1994** Congress passes federal "Three Strikes" law.

**2005** Supermax facilities now in 40 states, housing 25,000 inmates.

**2012** Incarceration rate reaches 760 per 100,000 in U.S. More than half of American inmates are in on drug convictions.

outlaw capital punishment for theft, didn't do so until 1786) were dealt with harshly, confined in dungeons or tawdry, violent, and often disease-ridden jails.

One early attempt at reform was nearly as harsh as the system it replaced. New York's Auburn Prison, built in 1816, was governed by the then-radical notion that prisoners were capable of change. Hence, prisoners were put to work, and community activity was encouraged during the day. But strict silence was enforced at all times, and prisoners were isolated in solitary confinement at night. Prisoners who so much as broke the silence were flogged or hung by their wrists or had their heads locked in iron cages.

A grand vision of prison reform would be instituted a few years later at Philadelphia's Eastern State Penitentiary, the fruit of the efforts of the Philadelphia Society for Alleviating the Miseries of Public Prisons, founded by a Quaker in 1787. The concept was pure of heart—that the light of God could be discovered in any person, whatever mistakes he may have made in the past. The society preached that prison should be a place of penitence where inmates reflected on their sins. In short, a penitentiary rather than a house of punishment.

When Eastern State finally opened its doors in 1829, the world took notice. Such notables as Charles Dickens and Alexis de Tocqueville came from abroad to tour the facilities. France, Prussia, Brazil, and England, among others, sent

representatives. The prison's design and approach to incarceration would ultimately influence more than 300 prisons worldwide, among them, facilities in China, Mexico, Canada, Czechoslovakia, and Japan—many still active today.

Recently I visited Eastern State, which was closed in 1971 but still stands as a museum. It is an awesome and fearful sight—a testament to the notion that man's noblest intentions sometimes produce the most dismal results. The walls, 8 feet thick at the base, soar 30 feet high, a stack of soot-stained concrete blocks running for half a mile on each of four sides. The interior was designed to include church-like features, such as barrel-vaulted corridors, pointed-arch windows, and skylights to let in the light of heaven. Each cell was a self-contained unit. Within 18-inch-thick walls, a prisoner had a bed, a desk, a skylight, and a small, adjacent courtyard for the time allowed to exercise. Prisoners had flushing toilets, running water, and central heating, the first time such amenities were included in a building of that size, though the purpose wasn't creature comfort but isolation.

The isolation was total. Prisoners received no visits from friends or family and reading material was restricted to the Bible. They could work at one of two

productive tasks as either shoemakers or weavers.

The cost alone indicates how seriously the prison was regarded: \$770,000 spent by the Commonwealth of Pennsylvania on construction made it the country's second most expensive building after the U.S. Capitol. Measured in today's dollars, it would amount to more than \$11.5 billion.

The system, its builders believed, would produce honest men, and supporters argued they were taking a humane and society-improving approach.

In practice, it was a living hell.

In 1841, when Charles Dickens came to see the extraordinary institution, he met Charles Langenheimer, an immigrant incarcerated for theft. Dickens expected to be uplifted by the experience. Instead, as he recounted in *American Notes*, he was horrified. "There was a German, sentenced to five years' imprisonment for larceny. ... He had painted every inch of the walls and ceiling quite beautifully. He had laid out the few feet of ground, behind, with exquisite neatness, and had made a little bed in the centre, that looked, by-the-bye, like a grave. The taste and ingenuity he had displayed in everything were most extraordinary; and yet a more dejected, heart-broken, wretched creature, it would be difficult to imagine. I never saw such a picture of forlorn affliction and distress of mind. My heart bled for him; and when the tears ran down his cheeks, and he took one of the visitors aside, to ask, with his trembling hands nervously clutching at his coat to detain him, whether there was no hope of his dismal sentence being commuted, the spectacle was really too painful to witness. I never saw or heard of any kind of misery that impressed me

We are  
5%  
of the world's  
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prisoners.

more than the wretchedness of this man."

Alexis de Tocqueville and Gustave de Beaumont, reporting back to the French government, interviewed prisoners and also wrote tales of abject misery. "No. 85.—Has been here two months; convicted of theft. Health good, but his mind seems to be very agitated. If you speak

of his wife and child he weeps bitterly."

Other records tell of prisoners banging their heads on walls until they caused open wounds.

"The effects of solitary were brutal," says Norman Johnston, author of *Eastern State Penitentiary: Crucible of Good Intentions*. "To be cut off from human contact like that is just horrific." However, Johnston points out that almost 200 years later prisons really haven't gotten much better. Johnston says he has been visiting prisons all over the world since the 1950s. "I'm not sure anything works all that well. The new, factory-style supermax prisons are built with efficiency, not rehabilitation or prisoner sanity as a prime objective."

Will we ever get prisons right? Filmmaker Tony Heriza, who spent two years visiting Pennsylvania's Graterford Prison, the nation's fourth-largest supermax facility, documented the early years of an ongoing endeavor in which inmates collaborated in the planning, design, and creation of public art for Philadelphia's Mural Arts Program.

"They became engaged in a creative, collaborative process," says Heriza, whose film, *Concrete, Steel & Paint*, has

## POST Perspective

FROM THE ARCHIVE



### HARSH PUNISHMENT

A lot of people have the idea that to go to prison means merely to withdraw from free society. They think it might be a rather monkish experience. Nothing could be more mistaken. Going to prison is not merely withdrawing from free society; it is entering caged society. There is no peace in prison. —"America's Toughest Prison," *The Saturday Evening Post*, October 27, 1951

PHOTO BY ARMY REIGLEY • 1951 SHS/CURTIS/ICHSING



## A NEW KIND OF PRISON

**Background:** In the early 1800s, Quakers and other like-minded individuals campaigned the Pennsylvania Legislature to build a prison based on the idea of reform rather than punishment. In 1822, the Pennsylvania Legislature approved funding for two new prisons—including Eastern State Penitentiary—to test this radical notion. In the following editorial, the *Post* cautiously supports the plan:

**When these two new Penitentiaries shall be ready for the reception of convicts, the completion will afford an opportunity of making a practical experiment of a system, uniting mildness with justice, and having for its object the reformation, as well as the punishment, of the unhappy individuals, whose ill conduct and crimes have made the[m] subjects of the law. Although perfection be unattainable by human endeavour, ... nevertheless it is his duty to profit from the instruction of experience and make it as free from defects as circumstances will permit.**

—“*Pennsylvania Legislatures*,” December 7, 1822

 For the entire article as well as a video and more, go to [saturdayeveningpost.com/prisons](http://saturdayeveningpost.com/prisons).

been screened nationwide. “There was also an inside-outside part. Instead of just being isolated and warehoused, they could be productive and visible. These programs, like repairing wheelchairs or training seeing-eye dogs, gives people purpose. It allows them to reconnect with people, and that pushes them to be more self-reflective. You can engage them so they understand the harm they did and give them an opportunity to do some direct or indirect restitution. It’s good not just for people behind bars but for their families and all the lives they touch.”

Throughout the legal and criminal justice world, which includes the professionals who have seen the system continue to fail, there is growing receptivity to the idea of restorative justice—the idea that the criminal justice system has to be predicated on healing and reparation rather than punishment. The notion harkens back to the ideals of Eastern State’s founders—but without the torture of solitary confinement.

Just ask Bob DeSena of the Council For Unity: “The public thinks that people in prisons are congenital criminals and

they think society would be better served by hiring more police and building more cells rather than create programs that would change the dynamic. Yes, there are psychos in prison. But there are also people that could be running companies instead of being in prison.”

Council for Unity organizes incarcerated former gang leaders and gets them together to talk. It’s all voluntary. They sit in a circle and speak freely about their sins and their regrets in a program modeled on AA. “We bring in FBI and Department of Corrections and community stakeholders,” says DeSena, “and they are stunned by the intelligence and depth and squandered assets of young men who should not be in prison.” He argues that the first step in reform is not seeing prisons in isolation but as part of a social system. “We need to recognize that from the moment someone enters prison he needs to be prepared for when he leaves prison. You can’t neglect him for 20 years and have him walk out with \$78 and a bus ticket and expect him to function in society.”

DeSena has supporters within and without the system. Sheriff Vincent DeMarco, the warden of Suffolk Jail, recalls his initial skepticism toward DeSena’s proposal to create gang powwows in his prison. “I was like, ‘Who is the guy, what does he want?’ It sounded bogus.” But as DeMarco listened, it began to make sense. “After 20 minutes, I was hooked,” he says. Today, an anti-gang program is running in DeMarco’s jail. “Gang members join voluntarily. They find out that they have more in common than they have different. They are great leaders,” says DeMarco.

Granted, DeSena’s organization has made but a tiny inroad into the gigantic problem of incarceration today. As he points out, what’s needed is a comprehensive reform effort at the government level. “There have to be programs through unions or through tax breaks to corporations for apprenticeships and job placements for offenders. They need halfway houses and wraparound services that include job placement, career readiness, housing, substance abuse services, all the things an offender needs in a communal setting in place before you even let him go. If that happens, he’ll have a place to go, and he’ll have enough here that he doesn’t have to go back there.”

The recidivism DeSena talks about is precisely the problem. It’s widely acknowledged that without programs to lead convicts back to a place in society, we will never cure our nation of its incarceration problem. As a cautionary tale, consider Dickens’ German prisoner, Charles Langenheimer. Released from Eastern State a few years after his encounter with the famous writer, the incorrigible thief would be arrested and jailed at least a dozen more times, serving eight more sentences at Eastern State alone. Finally, in 1884, desperate, frail, and unable to function on the outside, Langenheimer returned to Eastern State and asked if he could be let back in. He said he wished to die in the one place he had successfully adapted to.

Prison officials granted his request.

Todd Pitcock wrote “Take It to the Limit” for our May/June 2012 issue.

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# Budget Cutting Starts at Justice Department

By DEVLIN BARRETT

The budget cutting has begun. As President Barack Obama finalizes his proposals to increase federal funding for his priority programs, the White House is searching for ways to reduce spending elsewhere in the federal government.

At the Justice Department, officials are considering whether to shorten some federal prison terms and have already signed down a program that successfully encouraged fugitive criminals to turn themselves in.

The department—which saw years of rapid growth after the 2001 terrorist attacks—is just one of the federal agencies facing significant belt-tightening at a time of rising worries about the federal budget deficit.

The president, in his State of the Union speech Tuesday, said he planned to seek more federal money for education, transportation and energy. At the same time, he called for a five-year

freeze on non-security, discretionary government spending. To accomplish both goals, some other programs will have to go.

So the White House Office of Management and Budget, in discussions with departments and agencies, has proposed numerous cuts that could be included in the president's final budget proposal, to be sent to Congress in February. At Justice, according to internal documents reviewed by the Wall Street Journal, OMB's proposals include:

—Increasing the amount of time deducted from prison terms for good behavior, which would immediately qualify some 4,000 federal convicts for release, and another 4,000 over the next 10 years.

—Eliminating the Federal Bureau of Investigation's National Gang Intelligence Center, for a savings of \$8 million in the next budget year.

—Sharing less of the proceeds from property confiscated from criminals with state and local

authorities, and eliminating other funding to local police departments for some operations. The change would reduce spending by \$120 million, according to the White House.

A White House spokesman declined to comment before the president's budget proposal is formally unveiled.

Some parts of the Justice Department are already making cuts, or contemplating ending programs.

The U.S. Marshals Service has quietly shelved the Fugitive Safe Surrender Program, which has cleared the books on thousands of low-level criminal cases in the past six years. Under the program, law enforcement officials set up temporary shop in a church or a public setting, urging fugitives to turn themselves in to resolve old warrants and often drawing hundreds in a day.

U.S. Marshals spokesman Jeff Carter said officials there decided that although the program's goals "were laudable, the

agency could not sustain this unfunded initiative."

Supporters of the program say it is an extremely cost effective way to reduce piles of old cases. But the agency determined that it could not justify the program as part of its core mission, which is capturing violent fugitives.

Last week, Attorney General Eric Holder announced a hiring freeze and cuts in non-essential, non-personnel spending for the entire Justice Department.

At the Bureau of Alcohol, Tobacco, Firearms and Explosives, OMB had proposed, in a document drafted before Christmas, a cut of 3.5% from what the agency is likely to spend this year, and a 12.7% cut from what the agency had said it needed.

ATF therefore spent weeks deliberating whether to scale back Operation Gunrunner, part of the Obama administration's effort to attack Mexican drug cartels by cracking down on gunrunning.

Privately, law enforcement of-

ficials say the agency expects to preserve Gunrunner and face a smaller overall cut in the president's final budget proposal, in part because of the recent shooting of Rep. Gabrielle Giffords (D, Ariz.) in Tucson.

An ATF spokesman declined to discuss any potential budget decisions.

Mayors Against Illegal Guns, an advocacy group led by New York City Mayor Michael Bloomberg, has argued the ATF is already underfunded.

"This is an agency with important responsibilities, and 500 mayors have called on the administration to give the agency the resources it needs to do its job," said Arkadi Gerney, a special adviser to Mr. Bloomberg.

White House budget officials said in the OMB document "it appears that adding more agents does not increase the number of favorable outcomes," citing a fall in the average length of sentences for convicted drug traffickers between 1996 and 2009.

## Deficit Projection Fuels Fight Over Spending